

## UNITED STATES DISTRICT COURT

for the

EASTERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,

Plaintiff,

v.

DARIUS ALEXANDER PRESLEY,

Defendant.

Case No.: CR-23-53-KS

Date: 08/28/2024

Time: 1:00 p.m. – 2:40 p.m.

**MINUTE SHEET – SENTENCING HEARING**

U.S. District Court Judge, Keith Starrett

Katie Hayes, Deputy Clerk

Karla McWhorter, Reporter

FTR Courtroom: 1 - Room 230

Counsel for Plaintiff: Jordan W. Howanitz, Asst. United States Attorney

Counsel for Defendant: Richard D. Gifford, II, appointed ☒ Defendant appears in person with counsel.☒ Plaintiff & Defendant reviewed PSI:☒ Government

Objections:

☐ Yes☒ No☒ Defendant

Objections:

☐ Yes☒ No☒ PSI will form factual basis for sentencing. PSR (Dkt. Entry #40) marked as Court's exhibit #1.☒ Findings: Court adopts Plea Agreement as set forth in this matter.☒ Defendant and counsel asked if they care to say anything prior to sentence being pronounced.☒ Statements by Government in aggravation/mitigation of punishment. Government moves to admit exhibit #1 funeral expenses. Admitted without objection (KS). Court inquired regarding any victims present for hearing. Government responded victims notified and were present. Victim impact statements made.☒ Statements by defendant's counsel. Defendant moves to admit exhibits 1A, 1B and 1C letters in support of defendant. Admitted without objections (KS).☒ Statements by defendant.**SENTENCE: As to Count 1 of the Information**☒ Bureau of Prisons for a term of 327 months☒ Concurrent ☐ Consecutive

The Bureau of Prisons evaluate and determine if the defendant is a suitable candidate for the Intensive Drug Treatment Program. (RDAP) Should the defendant be allowed to participate in the program, it is further recommended that the defendant be afforded the benefits prescribed and set out in 18 U.S.C. Section 3621(e) and according to Bureau of Prisons' policy.

☒ Supervised Release for a term of 5 years☒ Concurrent ☐ Consecutive☒ Special Assessment: \$ 100.00☒ due immediately**SENTENCE: As to Count 2 of the Information**☒ Bureau of Prisons for a term of 240 months☒ Concurrent ☐ Consecutive☒ Supervised Release for a term of 3 years☒ Concurrent ☐ Consecutive☒ Special Assessment: \$ 100.00☒ due immediately**SENTENCE: As to Count 3 of the Information**☒ Bureau of Prisons for a term of 120 months☐ Concurrent ☒ Consecutive☒ Supervised Release for a term of 5 years☒ Concurrent ☐ Consecutive☒ Special Assessment: \$ 100.00☒ due immediately

**SENTENCE: As to Count 4 of the Information**

☒ **Bureau of Prisons for a term of** 180 months  
☒ **Supervised Release for a term of** 3 years  
☒ **Special Assessment:** \$ 100.00

☒ **Concurrent** ☐ **Consecutive**  
☒ **Concurrent** ☐ **Consecutive**  
☒ **due immediately**

☒ **Fine:** \$ 5,000.00  
☒ **Restitution:** \$ 3,483.18

☐ **with interest** ☒ **interest waived**  
☐ **with interest** ☒ **interest waived**

The defendant shall pay restitution in the amount of \$3,483.13, pursuant to 18 USC §3663A, to the victims set forth in a separate victim list prepared by the probation office, which this Court adopts. The victim list, which shall be forwarded to the fiscal section of the clerk's office, shall remain confidential to protect the privacy interests of the victims. The restitution shall be paid through the United States Court Clerk for the Eastern District of Oklahoma, and is due immediately. If the defendant's financial condition does not allow for immediate payment, the restitution is to be paid in monthly installments of not less than \$100, beginning 60 days after release. Notwithstanding establishment of a payment schedule, nothing shall prohibit the United States from executing or levying upon non-exempt property of the defendant discovered before or after the date of this judgment. In the event the defendant receives any federal or state income tax refund during the period of supervision, the defendant shall pay 100% of the total refund toward said restitution. Due to the defendant's projected earning ability, the Court has determined to waive any interest that may accrue pending payment in full.

☒ **STANDARD CONDITIONS** of Probation / Supervised Release given, including the following **Special Conditions:**

**1.** The defendant shall participate in a program approved by the United States Probation Office for the treatment of narcotic addiction, drug dependency, or alcohol dependency, which will include testing to determine if the defendant has reverted to the use of drugs or alcohol and may include outpatient treatment. **2.** The defendant shall successfully participate in a program of mental health treatment and follow the rules and regulations of the program. The probation officer, in consultation with the treatment provider, will determine the treatment modality, location, and treatment schedule. The defendant shall waive any right of confidentiality in any records for mental health treatment to allow the probation officer to review the course of treatment and progress with the treatment provider. The defendant must pay the costs of the program or assist (co-payment) in payment of the costs of the program if financially able. **3.** The defendant shall submit to a search conducted by a United States Probation Officer of your person, residence, vehicle, office and/or business at a reasonable time and in a reasonable manner, based upon reasonable suspicion of contraband or evidence of a violation of a condition of probation/supervised release. Failure to submit to a search may be grounds for revocation.

**ADDITIONAL MINUTES**

The defendant shall forfeit to the United States the personal property as set forth in the Preliminary Order of Forfeiture (Dkt. Entry #46).

The Court recommends that the Bureau of Prisons allow the defendant to participate in the Career Starter Program or a similar vocational training program during his term of incarceration.

The Bureau of Prisons is ordered to evaluate and determine the amount of credit to be given toward this sentence for any time previously served in custody and further award the Defendant credit for such time served in accordance with the Bureau of Prisons' policy.

The Court shall be informed in writing as soon as possible if the Bureau of Prisons is unable to follow the Court's Recommendations, along with the reasons for not following such recommendations made by the Court.

☒ **REASONS FOR IMPOSING SENTENCE** given by Court.

☒ Defendant advised of right to appeal ☐ Defendant gives oral notice of appeal

☒ Remaining counts ordered dismissed: 1, 2, 3 and 4 of the Indictment by Government.

☒ Defendant requests designation to a BOP facility: FCI El Reno, OK or closet to home with eligible programs ☒ So recommended by the Court.

☒ Defendant remanded to the custody of the U.S. Marshal

☒ Court adjourned.